



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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February 17, 1993

Mr. Hank Regulski
East Carbon Contractors
P.O. Box 880
East Carbon, Utah 84520

Dear Mr. Regulski:

Re: Preliminary Review of Reclamation Contract and Surety, Pagano Clay Project, M/015/062, Emery County, Utah

On February 10 & 11, 1993, the Division received a reclamation contract form and surety bond from East Carbon Constructors (ECC) to secure reclamation of the Jay Pagano Estate - Clay Project. After a preliminary review of the documents, and subsequent consultation with our legal counsel (Tom Mitchell), it was determined that the Division cannot accept these documents under the current outstanding permitting situation.

Because the Jay Pagano Estate is the designated operator, on record, of the mining project we cannot accept a reclamation contract and surety from ECC, which designates ECC as the operator. For us to be able to accept the surety, in its present form, ECC would have to be the operator of record.

A Large Mining Operation (LMO) permit application has not been filed and approved for this project. The operator of record (Harold Marston, representing Jay Pagano Estates) is presently not in compliance with the Mined Land Reclamation Act. Therefore, there is no permit to transfer to ECC as the new operator for this mining operation.

The Division has determined that in order to accept the current contract and surety bond the following conditions would be required.

1. ECC would need to file a new and complete LMO permit application. A detailed reclamation plan describing all reclamation that has taken place to date and what reclamation remains may be submitted in lieu of a complete mining plan (LMO), if no further mining will occur at this site.

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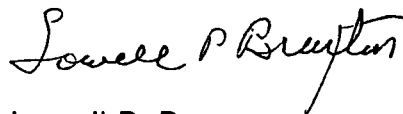
M/015/062

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2. If you plan to reopen and continue clay mining at this site, then a complete LMO permit application must be filed with and approved by this Division. No further mining may take place on the properties until a complete LMO permit application is approved by the Division.
3. Another option would be to change the operator, as designated on the reclamation contract, back to Jay Pagano Estate. ECC can still put up the surety. However, this removes control of the site from ECC. There can be a liability to the party supplying the surety, if another party controls the actual operation of the site.

The Division wants to work with you to resolve this matter as soon as possible. Please let us know how you would like to address this question.

Sincerely,



Lowell P. Braxton
Acting Director

jb

cc: Harold Marston

Thomas Mitchell, AAG

Minerals staff (route)

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